

THE FOLLOWING RESOLUTION WAS OFFERED BY (7/25/14)  
 COUNCILMAN \_\_\_\_\_, WHO MOVED  
 ITS ADOPTION, SECONDED BY \_\_\_\_\_  
 \_\_\_\_\_, TO WIT:

WHEREAS, the Town Board of the Town of Newstead had determined that the Sign Law of the Town of Newstead originally adopted on July 5, 1960 and amended at the time of the adoption of the Code of the Town of Newstead on February 8, 1993 by Local Law No. 1 of the Year 1993, amended by Local Law No. 1 of the Year 1997, Local Law No. 4 of the Year 2004, Local Law No. 5 of 2004 and Local Law No. 1 of 2006 was in need of revision and requested that the Planning Board of the Town of Newstead undertake to study the Sign Law and to propose revisions to it; and

WHEREAS, the Planning Board reviewed the Sign Law as previously amended and proposed that the existing Sign Law be repealed and a new Sign Law enacted which would apply to signage in the Route 5 Zoning Overlay District and has prepared a proposed draft of the new Sign Law; and

WHEREAS, the Town Board has reviewed the proposed new Sign Law and has determined that some revisions to the draft submitted by the Planning Board are required to make the section provisions more clearly defined, provide for the definitions at the beginning of the Sign Law, added in enforcement and penalty provisions and make additional minor modifications and included the provisions amending that portion of the Route 5 Zoning Overlay District governing signage; and

WHEREAS, Council \_\_\_\_\_ introduced the following proposed "Local Law No. 4 of the Year 2014", entitled "Amendment to the Sign Law and the Zoning Law of the Town of Newstead" and presented a copy to each member of the Board which reads as follows:

A Local Law known as Local Law No. 4 of the Year 2014 entitled "Amendment to the Sign Law and the Zoning Law of the Town of Newstead".

Be it enacted by the Town Board of the Town of Newstead as follows:

#### **SECTION 1. TITLE**

This Law shall be known as Local Law No. 4 of the Year 2014 entitled "Amendment to the Sign Law and the Zoning Law of the Town of Newstead".

#### **SECTION 2. PURPOSE**

The purpose of this local law is to repeal the existing Sign Law codified as Chapter 327 of the Code of the Town of Newstead and to adopt a new Sign Law which will also be codified as Chapter 327 of the Code of the Town of Newstead and to amend the provisions of the Route 5 Zoning Overlay District to provide that the new Sign Law will also apply to the Route 5 Zoning Overlay District.

#### **SECTION 3. AMENDMENT OF CODE**

The Code of the Town of Newstead is amended by this Local Law No. 4 of the Year 2014 as follows:

1. The Sign Law originally adopted on July 5, 1960 and amended at the time of the adoption of the Code of the Town of Newstead on February 8, 1993 by Local Law No. 1 of the Year 1993, amended by Local Law No. 1 of the Year 1997, Local Law No. 4 of the Year 2004, Local Law No. 5 of 2004 and further Local Law No. 1 of 2006 is amended and replaced in its entirety to read as follows:

## Chapter 327

### SIGNS

- § 327-1. Intent
- § 327-2. Definitions
- § 327-3. General requirements
- § 327-4. Signs allowed in all districts without a permit
- § 327-5. Temporary signs
- § 327-6. Off-premises signs
- § 327-7. Electronic messaging signs
- § 327-8. Unlawful signs
- § 327-9. Permit procedure
- § 327-10. Penalties for offenses
- § 327-11. Severability

#### §327-1. INTENT

The intent of this chapter is to promote and protect public health, welfare and safety by regulating existing and proposed outdoor signs. It is intended to protect property values, restrict visual blight and enhance the appearance of the community. It is further intended to enhance the business environment while protecting and improving the character of the community by reducing hazards that may be caused by obstructions or distractions.

#### §327-2. DEFINITIONS

##### A-Frame Sign (aka "sandwich board")

A portable temporary sign connected at the top and angled down on either side in the shape of an "A", usually with advertisement on two sides.

##### Animated Sign

Sign using movement or change of lighting to depict action or create a specific effect or scene.

##### Awning/Canopy Sign

Sign attached to the soffit or under the fascia of a permanent canopy, covered entrance or walkway awning or marquee.

##### Banner

A piece of cloth or material attached directly to the building or hung on posts or poles. National flags, state or municipal flags of any institution are not considered banners.

### Billboard

Larger than 80 square feet one-sided face area off-premises sign used to attract attention to an object, product, service, place, activity, institution, organization, business or public service message.

### Building Frontage

Length of the wall of a building facing nearest public right-of-way. Where building faces more than one street, the building frontage will be equal to the length of the longest side facing nearest public right-of-way.

### Changeable-Copy Sign

Sign containing a message, text or graphics that can be changed intermittently, either manually or electronically, to display a different message.

### Commercial Sign Code District

C-1 - Commercial District

C-2 - Commercial District

R-C - Restricted Commercial District

I-1 - Industrial District

I-2 - Industrial District

Route 5 Zoning Overlay District

### Directional Sign

Sign located on premises and used to direct traffic to a business, including roadway signage within multi-business parcels, such as plazas.

### Erect

Build, construct, alter, display, relocate, attach, hang, place, suspend, affix or maintain any sign, including painting of exterior wall signs, murals or wall billboards.

### Event Sign

A sign displayed for a specified time period advertising a civil or private event.

### Face Area

Sign face area is portion of sign on which copy is placed. This excludes the structures on which sign is supported. Where a sign has two or more faces, the area of all faces is the total face area of the sign.

### Fascia Sign

Sign attached flat against a building fascia.

### Flashing Sign

An illuminated animated or changeable-copy sign characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination.

#### Freestanding Sign

A sign permanently or temporarily affixed by any means in or upon the ground.

#### Illuminated Sign

Any sign lighted by electricity, gas or other artificial light, including reflective or phosphorescent light, which must conform to all National Board of Fire Underwriters requirements.

#### LED Sign

Light-emitting diodes, differing from incandescent bulbs because a variety of colors can be emitted from the same bulb without using filters; has the ability to display scrolling or flashing messages as well as a variety of colors. This definition includes electronic message boards, liquid crystal displays, digitized signs or sign parts, variable electronic message centers and similar electronic displays.

#### Lighting Device Used

Any light, string of lights or group or movement of lights located or arranged so as to cast illumination on and draw attention to a sign, person, activity or business.

#### Monument Sign

A ground sign generally having a low profile with little or no open space between the ground and the sign.

#### Off-Premises Sign

Sign less than 80 square feet one-sided used to attract attention to an object, product, service, place, activity, institution or business not located on site where sign is located.

#### Permanent Sign

Sign intended for continuous display.

#### Pole Sign

Freestanding sign in excess of six feet high that is detached from a building and is attached to a single pole or similar structure.

#### Primary Sign

A sign related to a business or activity or service or sale upon the sign location premises. The primary sign must be the most predominantly featured. Only one primary sign per business is allowed to be placed on any building.

#### Residential Sign Code District

R-A Rural-Agricultural District

R-1 Residential District

R-2 Residential District

R-3 Residential District

MHP – Manufactured Home Park District

## RVP – Recreational Vehicle & Campground Park District

### Right-of-Way (ROW)

Any state, county or town owned land for the purpose of public transportation.

### Secondary Sign

A sign related to a business or activity or service or sale upon the sign location premises, subordinate to the primary sign. Only one secondary sign is allowed per business that has a public parking lot, street, highway or access way.

### Sign

A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly out-of-doors upon a building, structure, or piece of land which directs attention to an object, product, service, place, activity, person, institution, organization or business and its membership.

### Street Frontage

The length of the property that is contiguous with a public street or right-of-way. Where the lot abuts more than one public right-of-way, the street frontage will be the length of the longest side.

### Temporary/Mobile Sign

A sign not intended to be permanently installed for a limited time period that announces an event or sale.

### Wall Sign

A sign fastened to or painted on the wall of a building/structure in such a manner that the wall becomes the support structure for or forms the background surface of the sign, and the sign does not project more than 12 inches from building/structure.

### Window Sign

A sign placed inside or upon a window facing the outside which is intended to be seen from the exterior.

## **§327-3. GENERAL REQUIREMENTS**

- A. If part of a site plan, appearance and placement of signs are subject to Planning Board review and Town Board approval, taking aesthetics into consideration.
- B. Multiple signs per parcel must be approved by Planning Board or as part of a site plan.
- C. One free standing sign is allowed for each individual building that is not a part of a multiple development and permitted in non-residential sign district only.

- D. Signs must not prevent vehicle drivers from having a clear and unobstructed view of any official sign or entrance or exit to a roadway or intersection, or to approaching or merging traffic.
- E. 12 feet height maximum, unless approval granted by Planning Board or by Town Board as part of site plan.
- F. Lighted signs permitted only by Planning Board approval.
- G. Single pole signs are prohibited.
- H. Landscaping is recommended. Sign and area around it must be maintained.
- I. Street number must be displayed on permanent signs.
- J. Monument or ground level signs are recommended. Maximum height = 8' above grade level. Maximum square footage per side = 32 for a total 64 square feet. Deviations must be approved by Planning Board.
- K. Monument signs must be located minimum 25' from non-residential lot and 50' from adjacent residential lot and 15' minimum from ROW.
- L. Maximum total face area of a freestanding sign is determined by street frontage of the lot as follows (if lot fronts on more than one street, it is the longest street):

<u>Street Frontage (linear feet)</u>	<u>Total Face Area (square feet)</u>	<u>Total Signage</u>
Under 200	64	128
200 – 349	96	192
350 – 499	128	256
500- 750	192	384
Over 750	224	448

Total face area of sign counts against total maximum allowable face area.

M. Multi-businesses per parcel signs:

- 1) Must be consistent with other existing signs on site, including replacement of existing signs that are damaged or destroyed.
- 2) Repair or replacement of previously approved signs that are damaged or destroyed are permitted in kind without approval or fee.

- 3) If a new business is added to an existing sign, it must not be greater than 50% of original sign and submitted for approval by the Planning Board.
- 4) Signs must be kept clean, neatly painted and free from all hazards, including faulty wiring and loose fastenings must be maintained at all times in a tidy and safe condition so as not to disserve the public health, safety and general welfare. Any sign found unsafe or unsecure or that is a menace to the public must be suitably repaired or removed.
- 5) Any sign no longer performing its original function due to vacancy or other change on the premises on which sign is located must be painted over by the owner within 30 days and removed within one year, including foundation and supporting structure.

N. Roof signs

- 1) Roof signs are not permitted unless approved by Planning Board or by Town Board as part of site plan.
- 2) Signs placed above or supported on top of a structure must be constructed of incombustible material and supported by framework of structural steel or comparable metal, except that lattice under sign, moldings and capping can be wood or other combustible material.
- 3) An open space must be maintained below bottom of sign except for necessary vertical supports. Within fire limits, roof sign cannot be supported by or attached to wooden beams or other wood structure over 40' high.
- 4) Roof sign must be designed for wind pressure meeting current building codes.
- 5) Metallic parts of a roof sign exposed to lightning must be grounded.
- 6) Roof signs must not interfere with access to all parts of the roof, scuttle or fire escape.

**§327-4. SIGNS ALLOWED IN ALL DISTRICTS WITHOUT A PERMIT**

- A. Historical markers, tablets and statues, memorial signs and plaques.
- B. Names of buildings and dates of erection when cut into masonry or of bronze, stainless steel, etc.



- C. Emblems installed by government agencies, religious or nonprofit organizations, and must be 6 square feet maximum size.
- D. On-premise direction signs identifying public parking, fire zones, entrances, exits, 4 square feet per face maximum and 6 feet high. Can be internally illuminated.
- E. Personal names, excluding advertising messages.
- F. Non-illuminated warning, private drive, posted or no-trespassing signs 2 square feet per face maximum.
- G. One on-premise sign (freestanding or attached) sign for any business conducted on same premises as a house, 8 square feet maximum and set back at least 10 feet from ROW without direct glare illumination beyond property line.
- H. Number and name plates mounted on house, apartment or mailbox identifying residents, 2 square feet maximum.
- I. Lawn signs identifying residents with no advertising message, and no larger than 4 square feet. Can only be illuminated if the sign support is a lamppost.
- J. Signs for garage sales and auctions no larger than 4 square feet selling private-owner merchandise. Ten day maximum display.
- K. Temporary for sale, for rent, real estate non-illuminated signs must be displayed on the premises concerned and removed within 3 days after sale, lease, or rental.
  - Maximum square feet per side:
    - Residential sign district = 4
    - Non-Residential sign district = 32 plus set back at least 15 feet from all property lines.
- L. Temporary roadside stand sign selling produce grown on the premises. 32 square feet maximum size, plus set back at least 15 feet from edge of paved portion of ROW.
- M. Directional signs for meeting, conventions or assemblies.
- N. Architect, engineer, contractor and/or owner signs on premises where work is in progress:
  - Residential sign district: 12 square feet
  - Non-Residential sign district: 12 square feet
- O. Political signs, poster, banners, maximum 32 square feet. Must be removed within 7 days following related election.

#### **§327-5. TEMPORARY SIGNS**

- A. Temporary signs must not exceed display of 30 days, unless approved by the Planning Board.
- B. Temporary signs must not be attached to utility poles, street signs or existing structures in the right-of-way and must not create a visual obstruction.
- C. Temporary signs must have an approved permit with a paid fee. If for public or charitable purposes, fee may be waived by the Code Enforcement Officer.
- D. Temporary signs are allowed in all districts, provided a permit has been obtained.
- E. Maximum size 32 square feet in area.
- F. Banners are prohibited.
- G. Temporary A-frame signs must not exceed 8 square feet in area per side, and be no more than 4 feet from the building and can only be used during business hours. One such sign allowed per tenant in a plaza.
- H. LED temporary signs are only allowed by the Planning Board with an approved permit.
- I. Must be located at least 15' off paved portion of road, including A-frame signs.
- J. Limited to one per business.
- K. Cannot exceed 32 square feet per side.

#### **§327-6. OFF-PREMISES SIGNS**

- A. Off-premises signs must be approved by the Planning Board.
- B. Written permission of the property owner where sign is to be displayed must be included with the sign application.
- C. Off-premises signs must be located at least 15 feet from the street right-of-way and 20 feet from adjoining properties. Size is limited to 6 square feet per side, unless approved by the Planning Board.
- D. Temporary off-premises signs advertising an event not located on the same site as the sign must be removed 3 days after event date.

- E. The Code Enforcement Officer will issue a warning to off-premises sign applicants and land owner concerning any violations of these requirements.

#### **§327-7. ELECTRONIC MESSAGING SIGNS**

- A. Any illuminated sign or lighting device must employ light of constant acceptable intensity.
- B. A static duration of at least 30 seconds before a message changes.
- C. No flashing, intermittent, animated, rotating or moving light(s) are allowed.
- D. Illuminated sign or lighting device must not be placed where the beams of light are illuminated directly on a public street, highway, sidewalk or adjacent premises causing glare or reflection that may create a traffic hazard or nuisance.
- E. Spacing: one LED sign per parcel and at least 400' from nearest non-commercial district.
- F. The full number of illuminating elements of a sign must be kept in working condition or immediately repaired or replaced.
- G. Overhead wires or exposed wires on a sign or its supporting member are prohibited.
- H. No sign can include any mirror or mirror-like surface nor any day-glowing or other fluorescent paint or pigment.
- I. LED signs for religious or public institutions, schools and fire departments are subject to review by Planning Board and may be restricted based on location or other criteria.

#### **§327-8. UNLAWFUL SIGNS**

- A. When any sign is constructed, erected or maintained in violation of any of the terms of this sign code or is unsafe and unsecure or is in such condition as to be a menace to the safety of the public, the Code Enforcement Officer will issue a notice in writing to the owner directing him to alter or repair such structure in a safe and secure condition within a reasonable time. Upon failure to comply, the CEO may issue an order to remove the sign. Upon failure to remove sign, it will be removed and removal expense will be charged to the sign owner.
- B. The Code Enforcement Officer may, at any time, revoke any sign permit for a violation of the sign code. Notice of revocation and reason given in writing, will be mailed to the last known owner of the premises on where the sign is placed using the address on the assessment roll of the Town of Newstead. A copy will be filed with the Town Clerk.

- C. See General Requirements section regarding unsafe, unsecure or signs no longer performing original function.

#### **§327-9. PERMIT PROCEDURE**

- A. A permit is needed to erect, re-erect, construct or structurally alter a sign or sign structure.
- B. Application for a sign permit shall be made to the Code Enforcement Officer and include the following :
  - 1) Acceptable proof of consent of the property owner where sign is to be located.
  - 2) Plan drawings to scale.
  - 3) Full description of the placement and appearance of proposed sign, including location on the premises; specifically, its position in relation to adjacent buildings, structures and property lines.
  - 4) Method of illumination and the position of lighting.
  - 5) Graphic design, including symbols, letters, materials and colors, visual message, text, copy or content of the sign.
  - 6) Fee, according to the Town of Newstead fee schedule.
- C. For multiple-building developments, a coordinated sign plan must be submitted to the Planning Board in addition to the application procedure.
- D. Upon receipt of a complete application and fee payment, the Code Enforcement Officer will examine the information and either issue a sign permit or refer it to the Planning Board for approval.

#### **§327-10. PENALTIES FOR OFFENSES**

Any person who violates any provisions of this chapter or any regulation adopted hereunder is guilty of an offense punishable by a fine not exceeding \$250 for the first violation; and a minimum of \$250 and a maximum of \$500 for a second violation within five years; and a minimum of \$500 and a maximum of \$750 for a third or subsequent violation within five years; or imprisonment for a period not to exceed 15 days, or both. Each week's violation shall constitute a separate violation.

## **§327-11. SEVERABILITY**

If any section, subsection, phrase, sentence or other portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

2. The Local Law creating the Route 5 Zoning Overlay District adopted on /February 14, 205 by Local Law No. 1 of the Year 2005 and codified as §450-26 of the Zoning Law is hereby amended as follows:

§450-25 D. (3) Signage is amended to delete the existing provisions and substitute the following provision:

(3) Signage requirements in the Route 5 Zoning Overlay District shall be the same as are provided in Chapter 327 of the Zoning Law.

## **SECTION 4. SEPARABILITY**

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

## **SECTION 5. APPLICABILITY**

This chapter is applicable only to the unincorporated areas of the Town of Newstead and shall be construed as an exercise of the powers of such town to regulate, control and restrict the use of buildings, structures and land for outdoor advertising purposes, displays signs or other advertising media in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the town and of its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereto.

## SECTION 6. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State of New York.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS;

A hearing before the Town Board of the Town of Newstead, in the County of Erie shall be held at the Town Hall, ~~Church and John Streets~~, Akron, New York at 7:\_\_\_ p.m. on the 25th day of August, 2014, for the purpose of hearing all persons interested in the proposed Local Law No. 4 of the Year 2014; and

BE, IT FURTHER

ORDERED, that the Town Clerk is directed to (a) publish a notice of public hearing in the Akron Bugle, designated as the official newspaper for this publication, such publication to be not less than ten days before the date of the public hearing; and post as required by law one copy of the Notice of Public Hearing no later than the day such Notice is published; (b) notify by mail all parties of interest pursuant to the General Municipal Law and the Town Law of the Public Hearing, not less than ten days before the date of the Public Hearing; and (c) send notice to Erie County Department of Environment and Planning as required under Section 239-m of the General Municipal Law; and

BE, IT FURTHER

ORDERED, that the Town Clerk is to make copies of the proposed "Local Law No. 4 of the Year 2014, entitled "Amendment to the Sign Law and the Zoning Law of the Town of Newstead", available at her office for inspection and distribution to any interested person during business hours.

The question of the adoption of the foregoing order was duly put to a vote on roll call, which resulted as follows:

Councilman Rooney	_____
Councilman Mayrose	_____
Councilwoman Whiting	_____
Councilman York	_____
Supervisor Cummings	_____